

## **REMARKS**

In an Office Action dated January 29, 2007, claims 1-147 were subject to a requirement for restriction. Applicants sought clarification. The Examiner issued a new restriction requirement in an Office Action dated April 16, 2007. Claims 2-23, 27-38, 40-58, 62-73, 75-77, 79-100, 104-113, 115-132, 136-143, and 145-147 are withdrawn without prejudice.

The Examiner designated claims 1, 39, 74, 78, 114 and 145 (we assume this was supposed to be claim 144) as generic claims. Applicants respectfully request Examiner to proceed with Examination of all generic claims: 1, 39, 74, 78, 114, and 144.

In the Office Action, under 35 U.S.C. §121, Examiner required Applicants to elect a single group out of the 24 groups listed in the Office Action for prosecution on the merits if no generic claim is held allowable. This restriction requirement is respectfully traversed. However, Applicants provisionally elect Group XII.

### **Response to Requirement for Restriction Under 35 USC § 121**

In the April 16, 2007 Office Action, the Examiner removed the references to PCT Rule 13.1, 35 U.S.C. § 372 and 37 CFR § 1.499; however, he did not address Applicant's substantive questions with the restriction requirement. First, the grouping of claims presented by the Examiner is inappropriate because it separates the dependent claims from their respective independent claims. Each independent claim serves as a linking claim for the claims which depend from it. The Examiner set forth 24 groups of claims, yet many of the members from different groups depend from the same independent claim. By definition, each dependent claim contains all of the limitations of the base claim from which it depends. Therefore, the dependent claims should not be divided among 24 different groups when the application only contained 6 independent claims.

In addition, the Examiner restricted the groups by both class and subclass. As Applicants stated during a telephone call with Examiner Bhatia on May 7, 2007, and in voicemail seeking clarification from the examiner's supervisor, Jason Cardone, restriction by class alone, rather than subclass, would have resulted in over 10 groups.

For example, as discussed with Examiner Bhatia on May 7, 2007, claim 55 in Group XI and claim 60 in Group XII generally discuss remote monitoring and are both classified by the Examiner in class 709. These claims should be considered together. Applicants maintain that at least Groups IV, X, XI, XVI, XVII, and XX should also be examined at this time. The claims within these Groups, all classified by the Examiner in class 709, are as follows:

Group XII contains claims 24-26, 59-61, 101-103 and 133-135.

Group IV contains claims 6, 44, 83 and 119.

Group X contains claims 16, 22, 23, 54, 93, 99 and 130.

Group XI contains claims 17, 55, 94 and 131.

Group XVI contains claims 30, 65, 107 and 137.

Group XVII contains claims 33, 68, 110 and 140.

Group XX contains claims 35, 36, 70, 71, 112, 113, 142 and 143.

Applicants refer the Examiner to 37 CFR §1.146 "Election of Species", which states: "the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application." The combination of Groups XII, IV, X, XI, XVI, XVII, and XX that Applicants have proposed above is reasonable.

Further, upon allowance of the generic claims, Applicants are entitled to consideration of additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. 1.141. Applicants also reserve the right to

introduce the subject matter of Group I-XI and XIII-XXIV in this or a separate continuation or divisional application.

Based on the above remarks, reconsideration of the restriction requirement is requested. Should the Examiner wish to discuss the above remarks, or if the Examiner believes that for any reason direct contact with Applicants' representative would help to advance the prosecution of this case to finality, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,  
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